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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,919	01/31/2001	Kazutaka Kochi	122.1435	9988
21171	7590	02/07/2006	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				BOUTAH, ALINA A
ART UNIT		PAPER NUMBER		
		2143		

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/772,919	KOCHI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alina N Boutah	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 November 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This action is in response to Applicant's amendment filed November 30, 2005. Claims 1-17 are pending in the present application. The title and specification have been amended to adopt the term "information apparatuses" in place of the original term of "terminal equipment." This does not change the scope of invention.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 9,078,960 issued to Ballard in view of Japanese Unexamined Patent Publication No. 3-233751 to Kokai.

(AMENDED) Regarding claim 1, Ballard teaches a system operating a plurality of information apparatuses, comprising;

a measuring unit operating time of each of a plurality of information apparatuses (figure 4A-B; col. 6, lines 3-19);

a determining unit determining rotation candidates among said plurality of information apparatuses and sending information apparatuses rotation messages to said rotation candidates (col. 5, lines 12-41; col. 6, lines 31-48); and

a backup unit backup processing data stored in said rotation candidate information apparatuses in accordance with said messages (abstract; figure 5);

a downloading unit for downloading said data associated with one of said rotation candidate information apparatuses on another of said rotation candidate terminal equipment after the rotation between said one of said rotation candidate terminal equipment and said another of said rotation candidate information apparatuses has been completed (col. 2, lines 6-17; col. 5, lines 12-41; col. 6, lines 31-64).

However, Ballard does not explicitly teach determining rotation candidates based on respective accumulated operating times of the plurality of information apparatuses.

Kokai teaches collecting accumulating usage time of a plurality of information apparatuses (abstract and claim 1). At the time the invention was made, one of ordinary skill in the art would have been motivated to collect accumulating usage time of information apparatuses in order to centrally collect the status of the information apparatuses, therefore allowing administrators to control the equipments, thus facilitating the terminal maintenance.

(AMENDED) Regarding claim 2, Ballard teaches the system for operating a plurality of information apparatuses as set forth in Claim 1, wherein said measuring unit measures the operating time of each of said information apparatuses which have replied to operating time

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confirming messages, sent thereto by said measuring unit and holds respective, accumulated operating time for each of said information apparatuses (col. 1, lines 59-67).

(AMENDED) Regarding claim 3, Ballard teaches the system for operating a plurality of information apparatuses as set forth in Claim 1, further comprising:

a display unit displaying said rotation messages on said respective rotation candidate information apparatuses (figures 4A-B); and

a backup unit performing a backup process by transferring in accordance with said displayed rotation message said data stored in said one of said rotation candidate information apparatuses from said one of said rotation candidate information apparatuses to another location (figure 5).

Claim 4 is similar to claim 1, therefore is rejected under the same rationale.

(AMENDED) Regarding claim 5, Ballad teaches an administrative unit as set forth in claim 4, wherein said operating time measuring unit confirms the receipt of replies to messages sent to said information apparatuses and then starts to measure the operating times of said information apparatuses (figure 1).

(AMENDED) Regarding claim 6, Ballard teaches an administrative unit as set forth in claim 4, wherein said control unit sends information apparatuses rotation messages to said rotation candidate information apparatuses when said rotation candidate information apparatuses are

determined and directs said rotation candidate information apparatuses to display said messages (figure 5).

Claims 7 and 8 are similar to claim 1, therefore are also rejected under the same rationale.

(AMENDED) Regarding claim 9, Ballard teaches the information apparatuses as set forth in claim 8, wherein after having executed said backup process of said data stored in said memory on said administrative unit, said controller unit downloads whole data relevant to operating environments associated with another information apparatus which is backed up in said administrative unit on said memory (col. 2, lines 6-17; col. 5, lines 12-41; col. 6, lines 31-64).

(AMENDED) Regarding claim 10, Kokai teaches the information apparatus as set forth in claim 8, wherein said control unit sends a reply message indicating that said information apparatus is in operation when said control means receives an operation confirming message (abstract).

Regarding claims 11-16 are similar to claim 1, therefore are also rejected under the same rationale.

(AMENDED) Regarding claim 17, Ballard teaches a computer readable recording medium as set forth in claim 16, having recorded further a program: downloading whole data relevant to operating environments associated with another computer from said administrative unit for

storage after having performed said backup process (col. 2, lines 6-17; col. 5, lines 12-41; col. 6, lines 31-64).

***Response to Arguments***

Applicant's arguments filed November 30, 2005 have been fully considered but they are not persuasive.

In response to Applicant's argument that Ballard does not disclose, "measuring operating time of each of a plurality of information apparatuses," the PTO respectfully submits that this is taught in figures 4A-B of Ballard. Specifically, these figures illustrate an example of a common data that is stored on each of the ISP servers, which consists of the load of each server. In this case, the "load" is interpreted as "operating time" as claimed by the invention.

In response to Applicant's argument that Ballard does not disclose rotating between servers connected to the network, the PTO respectfully submits that this is taught in col. 5, lines 12-41 as well as col. 6, lines 31-48 of Ballard. The cited area, specifically col. 5, line 36-37 and col. 6, line 47 teach load balancing by algorithm such as round robin. As known in the art, round robin is a load balancing technique that works on a rotating basis in that one server address is handed out, then moves to the back of the list; the next server address is handed out, and then it moves to the end of the list, and so on, depending on the number of servers being used (see definition of "round robin" found in [www.webopedia.com](http://www.webopedia.com), attached herein to this action).

In response to Applicant's argument that Kokai fails to teach or disclose "determining rotation candidates among said plurality of information apparatuses and sending information apparatuses rotation messages to said rotation candidates" and "backup processing data stored in

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the rotation candidate information apparatuses in accordance with the messages," the PTO respectfully submits that these limitations are taught in the combination of Ballard and Kokai as set forth above in the cited areas of the rejections.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina N. Boutah whose telephone number is 571-272-3908. The examiner can normally be reached on Monday-Friday (9:00 am - 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*ANB*

ANB



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